

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session
April 28, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:07 a.m. on Thursday, April 28, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblyman William C. Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Bradley Wilkinson, Committee Counsel
Gale Maynard, Committee Secretary

OTHERS PRESENT:

Raymond C. Avansino, Jr., Chairman, Nevada Athletic Commission
Ron Thompson, Southern Nevada Sports Association
Jerry Hughes, Executive Director, Nevada Interscholastic Activities Association
Frank Adams, Nevada Sheriffs' and Chiefs' Association
R. Ben Graham, Nevada District Attorneys Association

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Michelle Youngs, Deputy, Public Information Office, Sheriff, Washoe County
Fred Haas, Las Vegas Metropolitan Police Department
Tony Almaraz, Lieutenant, Nevada Highway Patrol, Department of Public Safety
Gerald Gardner, Chief Deputy Attorney General, Criminal Justice Division, Office
of the Attorney General

CHAIR AMODEI:

The first bill on the agenda is Assembly Bill (A.B.) 474.

ASSEMBLY BILL 474 (1st Reprint): Makes various changes concerning certain sporting events. (BDR 3-1374)

RAYMOND C. AVANSINO, JR. (Chairman, Nevada Athletic Commission):

I would like to thank Chair Amodei and Greg Ferraro for helping to guide us in attaching a few items to the sports bill. Our desire at the Nevada Athletic Commission is to incorporate within the language of *Nevada Revised Statute* (NRS) 41.630 the particular sports officials that help officiate our boxing matches, primarily in Las Vegas.

The language has been proposed to the Assembly to include not only the referee who is now covered under the limited liability section, but also the timekeeper, the inspector and the judge. There was a consensus agreement after our efforts in the Assembly, and we are pleased to present it to this Committee.

We have important funds that come to the State through various television programs, and payments have not been timely. An amendment to require payment within 20 days has been requested.

SENATOR CARE:

We are talking about unruly fans, but would this also apply to the boxer who assaults the official? I have seen this happen.

MR. AVANSINO:

I know Assemblyman Horne had that in mind, and we have had a limited number of those infractions during a boxing match. There was an experience where a heavyweight went after referee Jay Nady about a year ago. This is something we are trying to prevent, and these individuals deserve consideration for inclusion within this bill.

SENATOR MCGINNESS:

Several places in the bill reference, "immediately prior to, during or immediately after a sporting event." Is there a definition of, "immediately prior" or "immediately after?" Are we talking an hour or days?

MR. AVANSINO:

I am not familiar with this language as I did not propose this as part of the amendment. I think Assemblyman Horne would be better suited to respond to that question.

BRADLEY WILKINSON (Committee Counsel):

It is not defined in the bill. It would have an ordinary meaning of whatever that is, and it might be good to put in legislative intent exactly what is intended by those phrases.

CHAIR AMODEI:

Senator McGinness had a question regarding "immediately before" and "immediately after" in terms of where the language came from. Do we need to put an actual time on it?

ASSEMBLYMAN WILLIAM C. HORNE (Assembly District No. 34):

I noticed that language and anticipated the courts would use this. If after an event, and the assault happened as a direct result of the events that occurred, it would apply. This discretion is necessary for the courts, but it did not come up from testimony in the first hearing.

CHAIR AMODEI:

Instead of a time frame, what if we said, "or upon a sports official as a result or in connection with his performing his duties as a sports official." Therefore, if a person waits for five days and then goes after the official, we do not have a hot pursuit. I think your intent is to give them protection from these violent acts as a result of performing their duties as sports officials.

ASSEMBLYMAN HORNE:

Yes, that is the intent.

MR. AVANSINO:

Our support for this particular provision would primarily surround the evening of the event. However, your proposed language would not only encompass that particular time frame, but the time frame following as well.

CHAIR AMODEI:

Mr. Wilkinson, you do understand what the chairman of the Athletic Commission wants for purposes of an amendment. Is there anyone in the Sawyer Building in Las Vegas wanting to testify?

RON THOMPSON (Southern Nevada Sports Association):

Assembly Bill 474 is sponsored by me and Marc Ratner, Executive Director of the Nevada Athletic Commission, and we thank Assemblyman Horne for his support. The thrust of this bill is to protect sports officials including timekeepers, scorers and other personnel serving in a similar capacity at sporting events in Nevada.

The current statute protects certain classes of individuals such as taxicab drivers, law enforcement personnel and other types of people who are vulnerable to attack. Unfortunately, in Nevada we have had incidents in the last few years at high school events or in recreational sporting events where officials and referees have been attacked by fans and players who think a wrong call has been made, although that sometimes happens.

This legislation has been done in several other states in the Union; 19 states have enacted similar legislation, and it is pending in several other states.

JERRY HUGHES (Executive Director, Nevada Interscholastic Activities Association):

I have held this position for 17 years, and we are set up through State statutes to regulate and administer high school athletics in the State of Nevada. We also oversee our high school officials and train those individuals.

In the past 17 years, we had several situations where we had officials attacked by fans and players. This is an excellent bill, and it will set standards for proper behavior of adults and student athletes. We support this bill.

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CHAIR AMODEI:

We will close the hearing on A.B. 474.

SENATOR NOLAN MOVED TO AMEND AND DO PASS A.B. 474 WITH REVISED LANGUAGE REMOVING A TIME FRAME FOR ASSAULT AND INCLUDING LANGUAGE ON ASSAULT RELATED TO PERFORMING DUTIES AS A SPORTS OFFICIAL

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

We will open the hearing on A.B. 256.

ASSEMBLY BILL 256: Establishes crimes of vehicular homicide and homicide by vessel for driving vehicle or operating vessel under influence of alcohol or certain substances which causes death under certain circumstances. (BDR 43-458)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

Assembly Bill 256 relates to driving under the influence of alcohol or a controlled substance and establishes the crimes of vehicular homicide and homicide by vessel for the person with 3 prior drunk driving convictions who kills someone while driving or operating a vessel while under the influence of alcohol or drugs. I worked through this bill, and will submit a copy of my testimony for review by the Committee ([Exhibit C](#)). We modeled this legislation after California which already has established this crime, as have many other states. We have our representative from the district attorney's office in Las Vegas, Ms. Sandy Haverly, who worked with me on this legislation over the past year. The crime will be a Category A felony, punishable by imprisonment for life with the possibility of parole or for a definite term of 25 years.

In California and some other states, the first time you kill someone, it is vehicular homicide. In order to make a start in this area, we decided to go where no one could argue that someone who has had three driving under the

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influence convictions and then does it again should have another chance. This is a persistent drunk driver, and that driver is never going to stop. We need to get him off the streets to protect all of our families.

CHAIR AMODEI:

Is there anyone here in Carson City or in the Sawyer building in Las Vegas to testify against this bill? Does anyone have any comments?

SENATOR NOLAN:

Looking briefly at section 10 of the bill, how will this work with a bill moving through with a 0.18 alcohol level where someone is convicted on that? Do we get an opportunity to see how the two might coincide?

ASSEMBLYWOMAN BUCKLEY:

I have not read that bill yet and do not know the impact of it.

MR. WILKINSON:

I would have to actually look at that bill and see how they would relate to one another.

CHAIR AMODEI:

As I recall, we establish a different set of penalties for somebody who merely drives drunk at an elevated blood alcohol level, whereas in A.B. 256, it addresses a situation where you are a three-time offender and cause death. I suppose there is a potential overlap if you are a 3-time offender with a 0.19 alcohol level and you cause death. The prosecutor would then have a varied charging buffet to select from.

I am prepared to close the hearing on A.B. 256 and take a motion.

SENATOR HORSFORD MOVED TO DO PASS A.B. 256.

SENATOR WIENER SECONDED THE MOTION.

CHAIR AMODEI:

Are there any remarks on the motion?

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SENATOR CARE:

Language in section 10, mandatory prosecution, is the exact language contained in existing law; you will also find it in section 16, and I am fine with it.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

We will open the hearing on A.B. 531.

ASSEMBLY BILL 531: Provides additional or alternative penalty if first responder suffers substantial bodily harm or death during discovery or cleanup of premises wherein certain controlled substances were unlawfully manufactured or compounded. (BDR 40-105)

FRANK ADAMS (Nevada Sheriffs' and Chiefs' Association):

Our association supports the bill. My understanding of A.B. 531 is that it provides an enhancement in penalty to individuals involved in the compounding of controlled substances—mainly methamphetamine laboratories, phencyclidine (PCP) laboratories and any other such types. It says if a person does this type of violation and a first responder is injured, harmed or killed, either in responding to or cleaning up those types of laboratories, this bill would apply.

In my previous life, I was a narcotics enforcement officer, and these are some of the most dangerous criminals I have dealt with. The crime scenes are dangerous also, and many of the scenes are booby-trapped, one in four either explodes or a fire is caused. Officers responding to these types of crimes are required to be in full bodysuits with breathing apparatuses, and it requires special Environmental Protection Agency groups to clean up the scenes. The officers are required to keep medical records for 30 years and go through tests.

As a first responder in some of these cases, I would like to give an example of a case in Lake Tahoe that was an investigation of a suspected methamphetamine laboratory. A search warrant was acquired, and a search team, including the fire department, opened the garage door. On the left-hand side of the door were three cooking mantels cooking three vials of methamphetamine, and on the right-hand side of the garage were 50 5-gallon

cans of ether. The firefighters informed us there was enough ether in there to blow us all to the other side of the Lake. The firefighters got into their fire trucks and drove three blocks away saying, "if you need us, call us."

We support this bill, and with the dangers the officers face, this bill will help protect them.

SENATOR CARE:

I know this bill applies to first responders, but putting them aside, let me ask you about existing law. If one, two or three people operating a methamphetamine laboratory experience an explosion, and I understand when they explode it is dramatic, there is a potential for injuring other innocent people. Do we have a provision in the law that addresses this situation for someone who is maimed or killed?

MR. ADAMS:

If we have an injury or death that occurs as a result of a felony, it might apply to the situation you just described.

SENATOR CARE:

You normally think of a death as in an armed robbery, when someone fires a round and it kills someone even if not intended, and it becomes murder. Would that cover the scenario?

R. BEN GRAHAM (Nevada District Attorneys Association):

That would be something less than a first degree homicide. It could possibly be second degree because there would be no intent, and it would not fall under the typical felony murder rule. You would have a charge, but not first degree.

SENATOR HORSFORD:

What is done to prevent the ingredients contributing to the methamphetamine labs being operable from getting in the hands of the perpetrators? I understand some states are requiring individuals to list their names based upon some ingredients involved in the use of methamphetamine labs to monitor who has access to the ingredients and to what quantities. Are we doing anything like this in Nevada?

MR. ADAMS:

In Nevada, we have a couple monitoring levels of these chemicals. There is one on the federal level through the Drug Enforcement Administration (DEA) for those items considered precursors, which are chemicals needed to make the compound of the controlled substance. These are controlled at the chemical distribution level, and anyone who buys these specific precursors must identify themselves and show the use and location for such chemicals.

At the State level, our State Board of Pharmacy actually looks at these chemicals and different compounds that can be made into controlled substances and places those under a controlled system. In order to get these chemicals, a person has to sign for them.

I understand one of the newest processes is the use of Sudafed, which is a typical, over-the-counter medication. We have moved to get this controlled, and many pharmacies have removed it from the shelf. Now, you have to sign for it. What would happen is these chemists would buy 300 boxes of this and make methamphetamine.

The problem is that some of the chemicals used in these processes are common, such as red phosphorus, acetone and phenylacetic acid, which is P2P, phenyl 2 propanone, and used for making perfume as well as illicit drugs. These are legitimate chemicals for other processes. It is difficult, but we do have some procedures in place to help us monitor these things.

SENATOR HORSFORD:

I would like to get some of those comments in writing, but to get more specific, I want to know how Nevada compares to other states in the identification and tracking of these chemicals. This would be the preventative side of all this; we would not have to pass some of these laws if we could identify the chemicals in a way to keep them out of certain hands or at least the quantities that would allow a methamphetamine laboratory start up. If there is something in writing as to the State regulations or about the process, I would appreciate it, and I will continue my own research in this area.

MR. ADAMS:

I can get you the regulations of the Drug Enforcement Administration and what our State Pharmacy Board does. Understand that so many of the chemicals used in these compounds are chemicals used in everyday processes. Cleaners

such as acetone and cleaning fluids with ether have secondary uses. We try to control it the best we can, but they are legal and legitimate substances.

MICHELLE YOUNGS (Deputy, Public Information Officer, Sheriff, Washoe County):
I want to voice our support of this bill, as well. Everything has been said, and I would also be glad to help with the information requested by Senator Horsford.

FRED HAAS (Las Vegas Metropolitan Police Department):
We are also in support of this bill. Some of these crime scenes are extremely volatile, explosive in nature and one of the more dangerous situations we respond to that may be active at the time we arrive. We do not know if there is a fire source or what other chemicals are being used. The process to make methamphetamine changes regularly because the chemicals are being regulated and manufacturers find new ways to produce it, but they are still explosive in nature.

SENATOR MCGINNESS:

Following up on Senator Horsford's question, under section 1, subsection 5, of A.B. 531 under first responders, it says, "An employee of the State or a political subdivision of the State whose official duties require him to make home visits." Who would that include?

MR. ADAMS:

These would be individuals such as parole and probation officers, and welfare workers checking on children. It is surprising what you find. If I am not mistaken, recently in Las Vegas, someone other than a law enforcement officer may have been the one who found the laboratory in a child care center. There was a laboratory in the garage, and the mother was conducting a child care center in her home.

SENATOR WIENER:

Based on Senator Horsford's earlier question or concern, there are seasonal fire fighters. Are they included as well?

MR. WILKINSON:

I am not certain if they would fit under this provision. They may fit within the provision in section 1, subsection 6, where it refers to, "Any other person who is required by law to perform official duties that result in a person being present

during the course of the discovery or cleanup of premises" This provision may be intended to catch anyone who might have been missed.

TONY ALMARAZ (Lieutenant, Nevada Highway Patrol, Department of Public Safety):

We are here in support of the bill. I want to clarify a question asked earlier and address that under the Department of Public Safety (DPS). As you know, we have several entities that work under us: Nevada Highway Patrol, Investigation, Fire Marshal and Parole and Probation. Many times, our officers are called to homes, specifically Parole and Probation officers, not knowing there may be potential danger. The risk to exposure increases as these labs are not only in garages, but in apartment complexes. I have been working as a highway patrol trooper for 18 years and have assisted in serving warrants and have seen an entire apartment which was a lab. We had no idea what we were walking into. Certainly these risks fall into a wide variety of law enforcement offices within the State.

SENATOR HORSFORD:

Are there devices that can detect some of the chemical components to help law enforcement and other staff going into these places?

MR. ALMARAZ:

I am not sure if I am the authority to answer. Our fire departments and hazardous materials (HAZMAT) teams are equipped with certain devices that can identify certain chemicals. In law enforcement and the DPS, we do not have such devices.

MR. ADAMS:

There are some devices available to law enforcement, and many of the crime lab task forces have those devices available. At one time, I thought Nevada Division of Investigation from DPS was looking into identifying those. Some of the major DEA task forces have chemical sniffers, but they are limited to specific types of chemicals. One of the issues with methamphetamine, PCP and some of the others is there are two types of processes to produce these chemicals. If you go into a situation thinking there is one kind of chemical, and it turns out to be something else, that chemical sniffer does not always work.

SENATOR HORSFORD:

Are these instruments costly?

MR. ADAMS:

Yes, they are very costly, and run anywhere from \$10,000 to \$20,000 per unit.

SENATOR HORSFORD:

Are you aware of any requests in the budget to purchase more of them? I understand the sniffers may only pick up one of the three processes of these chemicals; however, if it picks up the right one at the right time, it is going to save a life.

MR. ADAMS:

I do not know the answer to that question, but I would be happy to do a poll of the crime lab task force and see what is available and what has been asked for and provide this information to you.

MR. HAAS:

Patrol officers do not have access to those sniffers, and if we respond to a domestic violence call or welfare check, this is where these labs are located. We will not have time to sit outside a domestic violence situation where weapons may be involved to check for chemicals.

SENATOR HORSFORD:

I appreciate that response, and I know it is costly, but a measure is coming to this House to fund more police officers with equipment and cars. Therefore, if this is going to help law enforcement protect themselves in these dangerous environments with the increase of methamphetamine labs, it is something we should look at in addition to the bills that create penalties on the back end. I am a prevention guy. I like to head situations off before they cost society a lot of money. I will support these bills, but I would much rather find a way to prevent a life from being lost. If that means equipping Las Vegas, North Las Vegas or Henderson police cars with these types of devices, although they are not 100 percent reliable, I think it is something we should pursue.

SENATOR NOLAN:

I agree with the bill. First responders may walk into these situations unwittingly, and in other cases there is an implied risk, especially when a HAZMAT team is doing the cleanup. They know what they are dealing with, and then something detonates. If there is a death associated with this, the penalty in this bill would apply.

In many of the situations, these labs are in apartment complexes with innocent children and families, and if it explodes, there will be a number of casualties. It sounded like because there was no intent associated with this, those deaths could not be charged with the same penalties under this bill. It will be a Category B felony. I hope we would look at this more closely and apply the same standards to innocent families who lose their lives over the careless acts of other people.

GERALD GARDNER (Chief Deputy Attorney General, Criminal Justice Division, Office of the Attorney General):

Senator Nolan, you are correct about the innocent parties and those who are not responders. The best we could prosecute them for under current law would be involuntary manslaughter. This is true for first responders under present law. Yesterday a bill was heard that would add greater penalties for injuries to children. We are taking this two steps at a time, and the immediate need to address was children. Addressing this bill for the first responders, paramedics, social workers and police officers who are regularly forced to come in direct contact with these labs was a concern. We agree the law should probably be expanded to cover innocent people other than first responders at some point.

I handed out written material ([Exhibit D](#)) for the Committee's review. It is simply a matter that a person who operates this kind of lab faces no greater penalty for injuring or killing a police officer than for running the lab itself. In fact, the penalty for causing the death of a police officer as a result of a methamphetamine lab carries a lesser penalty than manufacturing the chemicals. It should not be this way. Because of the extreme danger, we believe this is good legislation, and these operators should be dealt a severe penalty.

SENATOR HORSFORD:

A bill we considered yesterday defines what we are trying to accomplish addressing the manufacturing or compounding of any controlled substance other than marijuana. Is there any other way to define these labs that gets to the intent everyone is working toward, other than what we are proposing? The reason I ask is because when I looked up controlled substance in our statutes and did some research, the term includes things such as prescription drugs. The bill we passed yesterday basically says if you use prescription drugs in front of a child, you could be convicted of a Category B felony. This is how broad the

application could be. I understand the intent, but is there some other way we could define this to meet the specific intent of the Attorney General and the proponents of these bills?

MR. GARDNER:

In respect to the bill discussed yesterday, I need to do a little more research. Perhaps you can restrict it by enumerating the specific statutes this bill applies to, and if you want to exclude prescription drugs, you might do it that way. With respect to A.B. 531, I am not sure prescription drugs are manufactured in clandestine labs. I do not know of any other way to state the specific narcotics statutes you want covered, excluding prescription drugs. The problem is we cannot limit it to chemicals because we are also talking about organic compounds. Most of the chemical and organically created drugs have some danger in either the manufacturing or use process.

I will look into specifying particular statutes and eliminating the ones you think are too broad.

VICE CHAIR MCGINNESS:

We will close the hearing on A.B. 531 subject to reopening by the Chairman. There is also a Work Session Document ([Exhibit E](#)) in front of the Committee.

CHAIR AMODEI:

We will now turn our attention to A.B. 21 in the Work Session Document, [Exhibit E](#).

ASSEMBLY BILL 21 (1st Reprint): Prohibits civil compromise of certain misdemeanor offenses. (BDR 14-846)

CHAIR AMODEI:

I asked the district attorney offices to meet with the public defender offices to come up with an amendment. We had testifiers from Washoe County submit written comments referenced by Mr. Graham. In summary, they discussed their concerns and did not come to a consensus and would like to continue to work on some other issues for another session. Is this accurate, Mr. Graham? Let the record reflect an affirmative answer.

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What is the pleasure of the Committee with the amendment at Tab A of [Exhibit E](#), submitted by Kathleen O'Leary of the Washoe County Public Defenders Office?

SENATOR CARE MOVED TO DO PASS A.B. 21 WITH THE AMENDMENT AT TAB A OF THE WORK SESSION DOCUMENT.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The next bill of the work session is A.B. 78.

[ASSEMBLY BILL 78 \(1st Reprint\)](#): Makes various changes concerning administration of estates. (BDR 12-592)

CHAIR AMODEI:
There was some concern from Senator Horsford as to the compensation percentage received by auctioneers who perform this service for public administrators. There are no proposed amendments in the Work Session Document. Are there any thoughts from the Committee on this bill?

SENATOR HORSFORD:
I have spoken with the proponents of the bill after the hearing, and they were to bring some proposed amendments. I tried to contact them this morning with no success. As I recall, if we are to increase this commission to 25 percent, the amendment would include all fees necessary to do the advertising and appraisals, as opposed to having an increase in the commissions and charging additional fees or costs to the estate. Again, I have not seen proposed language since that meeting.

SENATOR MCGINNESS:
I missed the hearing on this bill, but my mother was a public administrator for a number of years in Churchill County, and none of the estates she received were huge. It looks as if the language in this bill says it must not exceed

25 percent; it appears to be a ceiling. A lot of times, an auctioneer, if it is a small estate, will not come out because it is not worth the time. The language in the bill also says if a commission goes over 25 percent, the auction house would have to go to court for approval.

CHAIR AMODEI:

There was a concern about jumping from 10 to 25 percent. The testimony was that to make it more cost-effective for smaller estates, they would need to have the ability to charge a higher fee. The question before the Committee is a value judgment which may cover Senator Horsford's concerns in terms of if it goes to 25 percent whether that is really everything.

I have no objection to an amendment that states, "that would be everything." Obviously the bill will go to conference if there were any concerns with the amendment. Senator Horsford could chair the conference committee to work out whether or not the 25 percent means everything. Are there any thoughts from the Committee on this proposal?

Mr. Wilkinson, do you have any feel for Senator Horsford's concern regarding adding language that says 25 percent will be inclusive of all fees and costs associated with the auctioneers' duties in liquidating the estate? Is this your concern, Senator Horsford?

SENATOR HORSFORD:

Yes, this was the discussion.

CHAIR AMODEI:

If this creates a huge problem, we will hear about it before it gets to the Senate Floor.

SENATOR CARE:

The testimony was they agreed every other manufactured home and motor vehicle falls out, so the commission is capped at 10 percent. It is the residual that would be capped at 25 percent. Arguably, you are going to have a sale where the advertising and associated costs include both the motor vehicle and the residuals. How are we going to word it?

CHAIR AMODEI:

That is why Mr. Wilkinson is in charge of handling the language. Mr. Wilkinson, are you comfortable in your mission regarding A.B. 78? Please make sure Senator Care sees a copy of this amendment. Senator Horsford, do you have a motion on this bill?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS A.B. 78 WITH THE AMENDMENT BEING 25 PERCENT WILL INCLUDE ALL FEES AND COSTS ASSOCIATED WITH THE AUCTIONEERS' DUTIES IN LIQUIDATING THE ESTATE.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR AMODEI:

The next bill on the work session agenda is A.B. 123, dealing with stun guns.

[ASSEMBLY BILL 123 \(1st Reprint\)](#): Prohibits use and possession of electronic stun devices under certain circumstances. (BDR 15-600)

SENATOR WIENER:

After talking with counsel, my concerns are that included provisions have to do with firearms for target practice or hunting. A stun gun is a dangerous weapon that, with those provisions, a child would be able to access.

CHAIR AMODEI:

Would you have a problem with a motion to amend and do pass with the removal for authorization of a juvenile?

SENATOR WIENER:

A proposed amendment such as that would be fine for youths 18 years of age and under.

SENATOR WASHINGTON:

After reading the bill, it states a juvenile can access this device as long as he has parental permission. My concern is the fact we live in such a violent world,

with proper training and use, and with the permission of a guardian, a stun gun may be an apparatus that may prevent a crime inflicted upon another person. This could include rape, battery or any other violent crime on a child of that age. I am opposed to the amendment and, therefore, will have to vote against the bill.

CHAIR AMODEI:

Are there any other thoughts before we request a motion?

SENATOR CARE:

I agree there is no reason for a person under the age of 18 to have one of these devices. Although they are called stun guns, we should not look at this as a gun because it is not, it is a device. If we say that someone under the age of 18 should not possess one and it becomes law, is there a provision in existing law that would cover the case where the adult gives this device to a person under 18? Could you charge the adult?

MR. WILKINSON:

There is no specific prohibition in statute, as drafted, but it would fall under the statute for contributing to the delinquency of a minor.

CHAIR AMODEI:

My intent in bringing these up in work session is that we have worked on Session bills we have heard. These bills are being addressed, and if there is no motion, that is fine. I want to be in a position to say everything that got referred to us was heard, and everything heard got called up in a work session. There is no need for anxiety. If the bill moves, fine; if it does not, that is fine, also.

SENATOR NOLAN:

I agree with Senator Wiener. You have 16-, 17- or 18-year-old juveniles of high school age carrying these devices around, regardless of parental permission. These devices do not fall under the definition of a firearm. After September 11, 2001, you cannot carry firearms into a public building. These devices are not used for target practice shooting cans in the desert. I do not think any testimony dealt with available or certified training for these devices as with a firearm. I have a problem with a child being allowed to have this device. I would support an amendment to strike the age limit on this.

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SENATOR WIENER MOVED TO AMEND AND DO PASS A.B. 123 WITH THE AMENDMENT TO REMOVE JUVENILES UNDER AGE 18 FROM HAVING AUTHORIZATION TO USE STUN GUNS.

SENATOR HORSFORD SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion?

SENATOR CARE:

I will support the motion. In the meantime, I am going to request language from staff saying if it would be illegal for someone 18 or under to possess one of these devices, then it would be illegal for one to be sold to someone 18 or under. I want to make sure we have that language covered somewhere.

CHAIR AMODEI:

Is the maker of the motion comfortable with that additional provision to the bill? Does the maker of the second concur? Mr. Wilkinson, are the amendments clear?

MR. WILKINSON:

Yes, they are clear. The only other thing that occurs to me is that Senator Care is referring only to selling these to juveniles, but other people such as felons, fugitives from justice, mentally ill persons and illegal aliens are also not allowed to possess these devices. It seems you would not want to sell it to them, either. I am not sure how the enforcement would work, although that would be more of a policy issue rather than a legal one. These devices are widely sold over the Internet and locally.

CHAIR AMODEI:

All those who are in favor of the additional amendment to the amendment on A.B. 123, cast your verbal vote.

THE MOTION CARRIED. (SENATOR WASHINGTON VOTED NO.)

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CHAIR AMODEI:

We will move to A.B. 157 in the Work Session Document, Exhibit E.

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[ASSEMBLY BILL 157 \(1st Reprint\)](#): Authorizes senior justices of the peace or senior municipal court judges to serve temporarily in justice's court or municipal court regardless of residency requirements under certain circumstances. (BDR 1-528)

CHAIR AMODEI:

A concern was voiced by Senator Horsford regarding the notion of temporary, he wanted to make sure we did not have a person in senior status who was not elected taking over an elected post in the judicial branch. Mr. Wilkinson, how did we address this issue?

MR. WILKINSON:

There would not be a conflict with that provision. It is a constitutional provision in Article 6, section 17 of the *Constitution of the State of Nevada*, which basically refers to being absent from the State for 90 days. That also applies to constitutional officers.

CHAIR AMODEI:

Do we need to amend the bill or not? What is the pleasure of the Committee on A.B. 157?

SENATOR HORSFORD MOVED TO DO PASS A.B. 157.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Let us move on to A.B. 166.

[ASSEMBLY BILL 166 \(1st Reprint\)](#): Revises certain provisions relating to offers of judgment in civil actions. (BDR 2-564)

CHAIR AMODEI:

This fairly technical bill with no proposed amendments comes from Assemblyman Hardy.

SENATOR CARE MOVED TO DO PASS A.B. 166.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

The next bill on the docket is A.B. 190.

ASSEMBLY BILL 190 (1st Reprint): Prohibits person from entering upon certain property, with intent to surreptitiously conceal himself on property and peer, peep or spy through opening in building or other structure used as dwelling. (BDR 15-631)

CHAIR AMODEI:

What are the thoughts of the Committee?

SENATOR CARE:

We did have the moving testimony from the victims, and I do not know if we need to have any consideration of language in this bill. It basically addresses someone else being on a property without the consent of the owner. I am trying to imagine a situation where someone with a camera is hiding in the bushes where there is a party going on, as opposed to a prowler.

CHAIR AMODEI:

Senator Horsford has asked how this bill cross-referenced with Senate Bill (S.B.) 28 and the video voyeurism bill.

MR. WILKINSON:

There is no conflict between those two bills; they can work together. If you have someone on property peeping, the other crime under S.B. 28 would be if that person has a camera and actually takes a picture of the private area of another person inside his or her house. You could have a sequence of events where someone commits both those crimes, and there would not be a conflict between those two statutes.

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CHAIR AMODEI:

What is the pleasure of the Committee?

SENATOR CARE MOVED TO DO PASS A.B. 190.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR AMODEI:

Assembly Bill 237 is sponsored by Assemblyman Hardy.

ASSEMBLY BILL 237 (1st Reprint): Revises jurisdiction of certain justices' courts. (BDR 1-1239)

CHAIR AMODEI:

At Tab B of Exhibit E, you have an amendment which takes care of concerns in Clark and Washoe Counties and would not change anything jurisdiction-wise in Washoe County.

SENATOR WIENER MOVED TO AMEND AND DO PASS A.B. 237 WITH THE AMENDMENT AT TAB B OF THE WORK SESSION DOCUMENT.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR AMODEI:

We will turn to the next bill on our Work Session Document. This was the District Attorney Association's bill, and there are no proposed amendments. Are there any thoughts from the Committee?

ASSEMBLY BILL 469 (1st Reprint): Revises certain provisions governing forfeiture of bail. (BDR 14-909)

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SENATOR HORSFORD MOVED TO DO PASS A.B. 469.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the motion to do pass A.B. 469?

SENATOR CARE:

I have looked up the statute on exoneration and the one for forfeiture. In the one case, it goes to missing a timeliness requirement by five days, and through that, the Supreme Court says the trial court has discretion to ignore or set aside the forfeiture when you have a mandatory provision. The bottom line is just to say the court has discretion or where justice requires and except where applicable, the court will consider the efforts, if any, made by the insurer to return the defendant.

MR. GRAHAM:

We would like the language to be put back to where it was in 2003.

CHAIR AMODEI:

Am I to understand the translation for this to mean you do not want to talk about this until 2007? There is a motion to do pass A.B. 469, and Senator Care has conceded to the 2007 request. Is this agreeable to the maker and the second of the motion?

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Committee, I was not here to hear A.B. 531. Is there a desire to move that bill today?

SENATOR MCGINNESS:

There were enough questions from both ends of the Committee that we should take a day to look at this.

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CHAIR AMODEI:

We have reposed the hearing on A.B. 474, although we took action on it today. We need to make it part of the record that if there is anyone who did not have the opportunity to testify on this bill, we may reopen the hearing for informational purposes.

SENATOR HORSFORD:

Mr. Chair, I was not able to speak to you in person, but I want to inform the Committee regarding the bill we passed, A.B. 465, dealing with the methamphetamine labs, I talked to Mr. Graham this morning along with Mr. Wilkinson, and I am trying to work on language for an amendment that would clarify the process for those who are using drugs and the process they would go through for consideration through drug court before the penalties of a Category B felony would be imposed. I will keep the Committee informed as to further action taken.

CHAIR AMODEI:

Is there anything else to come before the Committee? Seeing no further business, we are adjourned at 10:26 a.m.

RESPECTFULLY SUBMITTED:

Gale Maynard,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____